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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/242,014	04/05/1999	ACHIM SCHMITT	CM11890	9441

27752                      7590                      05/14/2003

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INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER
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WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/14/2003 *18*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/242,014

Applicant(s)

SCHMITT, ACHIM

Examiner

Jamisue A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Widlund (5,454,804).
3. Widlund discloses a sanitary napkin (see figures 1-6) for wearing in the crotch portion of a pair of underpants (9), with longitudinal and transversal side edges (see figures 1 and 5), a wearer facing topsheet (1) and a garment facing casing backsheet (2), with flexible side flaps (4,5) that are intended to be folded around the edges of the leg openings of wearer's underpants. Widlund discloses that the flaps are joined with their free edge parts extending inwardly over the absorbent pad on the side of the casing remote from the wearer when the article is in use (column 2, lines 44-47), therefore the side flaps have a predisposition to assume the in-use position, away from the wearer. Widlund also discloses the side flaps, or wrapping elements, can be formed by having the casing sheets extend beyond the side edges of the absorbent core, integral, (column 2, lines 19-23) or the side flaps can be separate elements from the main body portion and are attached along the longitudinal edge of the garment wearing casing sheet (Figure 3). Widlund discloses the wrapping elements having fold lines (6,7) where the wrapping elements and the main body portion are severed (Figure 3). Widlund discloses the wrapping elements are less than half the length of the fold lines (6,7) and are relatively in the center of the fold lines (see figure 4&5), therefore it is the examiners opinion that the wrapping elements are being joined at

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less than 50% of the length of the fold lines. Widlund also further discloses that the part of the edge joins (12, 13) is much longer than the actual join (column 6, lines 31-33), the examiner takes this to mean that the length where the wrapping elements and the main body portion are joined, is much less than the length that they are not, therefore it is the examiner's position that the wrapping elements are only joined at less than 50% of the total length of the longitudinal edge. Widlund discloses the wrapping elements being equipped with adhesive regions (14, 15).

### ***Response to Arguments***

16. Applicant's arguments filed 7-02-02 have been fully considered but they are not persuasive. The applicant has argued the rejection based on the fact that the applicant does not believe that Widlund discloses the side flaps to be integral with the main body portion, due to the fact that Widlund discloses they can be made of separate pieces of material. The term "integral" is construed as a relatively broad term and is not necessarily restricted to a one-piece article, it is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Dike* (CCPA) 157 USPQ 581, *In re Kohno* (CCPA) 157 USPQ 275 and *In re Hotte* (CCPA) 177 USPQ 326. Widlund discloses the flaps being attached to the side edges of the main body portion, therefore are integral with the main body portion, since the flaps and the main body portion for one whole unit, the sanitary napkin. Rejection stands as stated above.

### ***Conclusion***

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

May 8, 2003



WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700